

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CRM No. M-23814 of 2021
Date of Decision : 29.11.2021

Utkarshh Pahwa

...Petitioner

Versus

Sai Bhakti Impex Pvt. Ltd. and another

...Respondents

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Athwal, Advocate for the petitioner.

Mr. Saurabh Kapoor, Advocate for respondent No. 1.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

On the last date of hearing, following order was passed :-

“Present petition has been filed for quashing of the criminal complaint No.COMA/24875/2019, dated 05.08.2019, titled as “Sai Bhakti Impex Pvt. Ltd vs Goodluck Carbon Pvt. Ltd. and others”, under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881. Petitioner has been summoned in the said complaint, which has been preferred by respondent No.1.

Learned counsel for the petitioner submits that in the present petition, notice of motion was issued by a co-ordinate Bench on 05.07.2021 and Mr. Saurabh Kapoor, Advocate appeared for respondent No.1 on 01.09.2021 and sought time

to argue the matter. The case was listed on 13.09.2021 but no one appeared for respondent No.1 and the Registry was directed to inform learned counsel for respondent No.1 the adjourned date of hearing i.e. 24.09.2021. Today again, no one has appeared on behalf of respondent No.1.

Learned counsel for the petitioner argues that the complaint in question is liable to be quashed on the ground that the petitioner, has been arrayed as a respondent in the complaint by stating him to be the Vice-President of the company which fact is incorrect as the petitioner has nothing to do with the said company and the present petition has been filed just to harass the petitioner.

*Learned counsel for the petitioner argues that even otherwise also, if a Director or Chairman are being impleaded in a complaint, a specific allegation has to be mentioned against them so as to justify their inclusion in the complaint, which is missing in the complaint filed by respondent No.1 hence, keeping in view the settled principle of law settled by Hon'ble the Supreme Court in Criminal Appeal Nos.1047-1048 of 2021, titled as **“Ravinderanatha Bajpe v. Manglore Special Economic Zone Ltd. and others etc.”** decided on 27.09.2021, complaint is not maintainable against the petitioner and is liable to be set aside.*

As no one is appearing on behalf of respondent No.1, in the interest of justice, an another opportunity is given to respondent No.1 to address the arguments in the present petition.

Adjourned to 29.11.2021.

The Trial Court is directed to adjourn the proceedings beyond the date fixed by this Court, so that no prejudice is caused to the either of the parties.”

Today, learned counsel appearing on behalf of respondent No.

notice of this Court by the petitioner, even respondent No. 1 is not interested to proceed against the petitioner with respect to the complaint (Annexure P-1), wherein, the petitioner has been impleaded as accused No.

4. Learned counsel for respondent No. 1 submits that keeping in view the facts and circumstances of this case appropriate application will be moved by respondent No. 1/complainant before the trial Court for deleting the name of the petitioner as accused from the array of the parties so that the trial Court is able to proceed against the remaining accused qua the complaint (Annexure P-1) made by the complainant.

Learned counsel appearing on behalf of the petitioner submits that as respondent No. 1 has undertaken not to pursue the complaint against the petitioner and to move appropriate application for deletion of the name of the petitioner from array of the parties in respect of the complaint Annexure P-1, no further grievance of the petitioner survives in the present petition and petitioner has no objection in case the trial Court is allowed to proceed with the said complaint qua the other accused.

Keeping in view the above, as undertaken before this Court, the present petition is disposed of with liberty to respondent No. 1 to move appropriate application before the trial Court so as to delete the name of the petitioner from the array of the accused in respect of the complaint Annexure P-1.

It is made clear that interim order passed on 05.10.2021 requesting the trial Court to adjourn the matter, stands vacated and trial Court will be within its power to pass appropriate orders not only on the application to be filed by respondent No. 1 so as to delete the name of the

petitioner as accused from the array of the parties but also to proceed in accordance with law qua the complaint Annexure P-1 against the remaining accused so as to dispose of it as expeditiously as possible.

November 29, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No